



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D C 20463

MAY 4 2004

Abbe Lowell, Esq.  
Pamela J. Marple, Esq.  
Chadbourn & Parke, L.L.P.  
1200 New Hampshire Avenue, N.W.  
Washington, DC 20036

Re: MUR 5366  
Tab Turner  
Turner & Associates

Dear Mr. Lowell and Ms. Marple:

On June 6, 2003, the Federal Election Commission notified your clients, Tab Turner and Turner & Associates, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information provided by your clients, the Commission, on April 14, 2004, found that there is reason to believe that your clients knowingly and willfully violated 2 U.S.C. §§ 441f and 441b, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Brant Levine, the attorney assigned to this matter, at (202) 694-1572.

Sincerely,



Ellen L. Weintraub  
Vice Chair

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

**Respondents:** Tab Turner, Turner & Associates

**MUR:** 5366

**I. INTRODUCTION**

This matter was generated by a complaint filed by the American Conservative Union dated May 30, 2003. *See* 2 U.S.C. § 437g(a)(1). The complaint alleged that Tab Turner and Turner & Associates (collectively, "Respondents") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by reimbursing employees for their contributions to John Edwards's presidential campaign committee, Edwards for President ("the Edwards Committee").

**II. FACTUAL AND LEGAL ANALYSIS**

Turner & Associates, led by attorney Tab Turner, is a litigation firm based in Little Rock, Arkansas. *See* <http://www.tturner.com>. According to disclosure reports, on March 3, 2003, the Edwards Committee received four contributions of \$2,000 each from four individuals who listed their employer as Turner & Associates: Michelle Abu-Halimeh, Amy Parker, Diana Harcourt, and Jennifer Keylon. All of these individuals listed their occupation as legal assistant, and none appears to have contributed to a federal candidate before that time. Three days before the employees made these contributions, Tab Turner himself contributed \$2,000 to the Edwards Committee.<sup>1</sup>

The complaint cites media reports that identified numerous law firms whose employees reportedly made questionable contributions to the Edwards Committee. *See* Complaint, Exs. A-

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<sup>1</sup> The Edwards Committee refunded the contributions from Mr. Turner and his employees on April 17, 2003.

F. Most specifically, the *Washington Post* reported that a paralegal at Turner & Associates received assurances from Mr. Turner that she would be reimbursed for her contribution to the Edwards Committee. *See* Complaint, Ex. A. According to the *Post*, Mr. Turner responded, “[S]he is not going to be reimbursed. She apparently cannot be reimbursed under some rule relating to campaign finance.”<sup>2</sup>

Tab Turner and his law firm did not directly respond to the complaint.

Given the complaint’s specific allegations of a reimbursement scheme by Mr. Turner, and given the reported comments from paralegals that Turner promised them reimbursements for their contributions, further investigation into this matter is warranted. Additionally, because Respondents have not substantively responded to the complaint, there are material unanswered questions that need to be addressed.

If Respondents reimbursed their employees for contributions to the Edwards Committee, then they may have violated the Act. The Act prohibits any person from making a contribution in the name of another person. *See* 2 U.S.C. § 441f. Likewise, persons are prohibited from knowingly permitting their names to be used to effect contributions made in the name of another person and from knowingly assisting in making such contributions. *See id.*; 11 C.F.R. § 110.4(b)(1)(iii).

In addition to facing potential liability for making contributions in the name of another, Respondents may also be subject to the Act’s prohibition on corporate political activity. Corporations are prohibited from making contributions or expenditures from their general

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<sup>2</sup> Thomas Edsall and Dan Balz, *Edwards Returns Law Firm’s Donations*, WASH POST, Apr. 18, 2003 at A1.

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treasury funds in connection with any election of any candidate for federal office. *See* 2 U.S.C. § 441b(a). The Act also prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation. *See id.*

Due to the inherently deceptive nature of conduit schemes, Respondents may have committed knowing and willful violations of the Act. *See* 2 U.S.C. §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is violating the law. *See Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established “by proof that the defendant acted deliberately and with knowledge that the representation was false.” *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn “from the defendant’s elaborate scheme for disguising” his or her actions. *Id.* at 214-15.

Tab Turner’s apparent attempt to conceal the true source of his contributions by organizing a reimbursement scheme indicates that his conduct may have been knowing and willful. Although Turner reportedly asserted that he did not know about the Act’s prohibition on contributions made in the name of another, the inherent deceptive nature of conduit schemes merits an investigation into whether his conduct was knowing and willful. Furthermore, according to public records from the Arkansas Secretary of State, Tab Turner’s firm appears to be a for-profit corporation. Thus, in addition to potentially making contributions in the name of another, Tab Turner and his law firm may have made prohibited corporate expenditures. *See* 2 U.S.C. § 441b(a). Therefore, there is reason to believe that Tab Turner and Turner & Associates knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

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